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7
8 **BEFORE THE**
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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11
12 HEARING IN THE MATTER OF
13 CALIFORNIA DEPARTMENT OF WATER
14 RESOURCES AND UNITED STATES
15 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
FOR CALIFORNIA WATERFIX

**Protestant Restore the Delta's Response to
Objections of the Department of Water
Resources and San Luis & Delta-Mendota
Water Authority to Exhibits Submitted by
Restore the Delta**

1 Protestant Restore the Delta (“RTD”) hereby responds to the objections of the Department of
2 Water Resources (“DWR”) and San Luis & Delta-Mendota Water Authority (“SLDMWA”) to
3 exhibits submitted into evidence by RTD.

4 **I. DWR OBJECTIONS TO EXHIBITS**

5 DWR raises three objections to certain of RTD’s exhibits. First it argues that certain exhibits
6 (RTD-105, 106, 107, 108, 110, 111, 112, 113, 233, and 234) were not used in testimony. RTD
7 properly submitted these exhibits to preserve its ability to make reference to these exhibits during its
8 rebuttal testimony. Moreover, RTD-105 through 113 are incorporated by reference into RTD-114,
9 which is cited in Mr. Stroshane’s testimony. RTD-233 is relevant because it provides foundation
10 for the subsistence fishing estimate in Ms. Barrigan-Parrilla’s testimony.

11 Second, DWR objects to certain exhibits as duplicative and cumulative with other exhibits.
12 These exhibits (RTD-142, 143, 153, 154, 221, 222) are official public comments of various public
13 agencies on the environmental review documents for BDCP and California WaterFix and are offered
14 in support of various assertions Mr. Stroshane makes in his testimony. Mr. Stroshane is entitled to
15 rely on such comments, and it is up to the Hearing Officers to determine, in light of their expertise,
16 the extent to which these comments support Mr. Stroshane’s arguments. DWR’s arguments that
17 these public documents are hearsay are baseless.

18 The protests of East Bay Municipal Utilities District and City of Stockton are on file in this
19 hearing, and RTD merely submitted these as evidence to support its case. Whether omitted from
20 RTD’s exhibits or not, they remain in the record. However, DWR’s objection to RTD’s submission
21 of comments from these agencies as “duplicative” simply because the two agencies have “submitted
22 testimony in support of their filed protests” is meritless, since DWR offers no evidence that the
23 specific exhibits offered by RTD were submitted by these agencies.

24 Third, DWR objects to certain of RTD’s exhibits (RTD-401-405) on the grounds that these
25 exhibits were not supported by witnesses presenting testimony. These five affidavits from local
26 business people in Stockton regarding the economic harm that the project would cause to
27 environmental justice communities in the City of Stockton are described in the testimony of
28 Esperanza Vielma, who personally interviewed each of these people. RTD did not seek to present

1 them as witnesses in the interests of time, but Ms. Vielma, under oath, accurately reported what they
2 had related to her.

3 **II. SLDMWA OBJECTIONS TO EXHIBITS**

4 SLDMWA objects on hearsay grounds to over 60 of RTD’s exhibits. These scattershot
5 objections lack merit. First, as SLDMWA acknowledges, hearsay is technically admissible in this
6 hearing. Government Code section 11513(d) allows hearsay evidence in this proceeding “for the
7 purpose of supplementing or explaining other evidence.” That is exactly what the exhibits submitted
8 by RTD, including the more than 60 exhibits that SLDMWA challenges without any specificity, are
9 intended to do.

10 Further, SLDMWA’s objection must be overruled because it fails entirely to provide any
11 detail as to why each of the over 60 exhibits it challenges is hearsay. Its failure to provide any
12 specificity to its blanket objections is reason alone to overrule them.

13 **III. CONCLUSION**

14 The objections of DWR and SLDMWA to RTD’s exhibits lack all merit and should be
15 overruled.

16 Respectfully submitted,

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18 DATED: January 6, 2017

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1 **STATEMENT OF SERVICE**

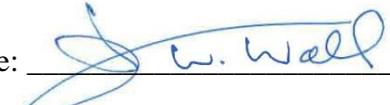
2 **CALIFORNIA WATERFIX PETITION HEARING**
3 **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

4 I hereby certify that I have this day submitted to the State Water Resources Control Board
5 and caused a true and correct copy of the following document(s):

6 **Protestant Restore the Delta’s Response to Objections**
7 **of the Department of Water Resources and San Luis & Delta-Mendota Water Authority**
8 **to Exhibits Submitted by Restore the Delta**

9 to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current Service**
10 **List** for the California WaterFix Petition Hearing, dated November 15, 2016, posted by the State
11 Water Resources Control Board at [http://www.waterboards.ca.gov/waterrights/water_issues/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
12 [programs/bay_delta/california_waterfix/service_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

13 I certify that the foregoing is true and correct and that this document was executed on
14 January 6, 2017.

15 Signature:  _____

16 Name: John W. Wall

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